

1 Tracy Collins, SBN 144307
2 Law Offices of Tracy Collins
3 5699 Kanan Road, Suite 415
4 Agoura Hills, CA 91301
5 Phone: (818) 889-2441
6 Fax: (818) 889-1210
7 tracy@tracycollins.com

8 Attorney for Plaintiff Carol Herceg

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 WESTERN DIVISION

12 CAROL HERCEG,

13 Plaintiff,

14 -vs-

15 HARTFORD LIFE AND
16 ACCIDENT INSURANCE
17 COMPANY, COMPUTER
18 SCIENCES CORPORATION
19 ("CSC") GROUP INSURANCE
20 PLANS,

21 Defendants.

22 CV08-08117 PA VBKx
23 NO. CV-

24 COMPLAINT FOR BENEFITS
25 UNDER ERISA LONG-TERM
26 DISABILITY PLAN

27 1. This action is brought under 29 U.S.C. §§ 1132(a), (e) and (f), §§ 502(a), (1)
28 (B) of the Employee Retirement Income Security Act of 1974, as amended
(hereinafter "ERISA").

1. At all times relevant herein, Plaintiff CAROL HERCEG ("Plaintiff") was a
participant in Defendant COMPUTER SCIENCE CORPORATION GROUP
INSURANCE PLAN (the "Plan"), an employee welfare benefit plan offering short
and long term disability benefits insured by Defendant HARTFORD LIFE AND
ACCIDENT INSURANCE COMPANY ("Hartford"). Defendants may be found in

1 this judicial district and the Plan is administered in this district therefore, venue is
2 proper here pursuant to 29 U.S.C. § 1132(e) and 28 U.S.C. § 1391(b)(2).

3 3. Plaintiff, at all times relevant herein, was employed by COMPUTER
4 SCIENCE CORPORATION ("CSC") and was a participant in the Plan. Defendant
5 Plan is an employee welfare benefit plan within Title I of ERISA, sponsored by
6 CNA.

7 4. Plaintiff is informed and believes that Defendant Hartford is a corporation
8 with its principal place of business in the State of Connecticut, authorized to transact
9 and transacting business in the Central District of California and can be found in the
10 Central District of California.

11 5. In or about January 2008, during the period of her employment, Plaintiff
12 became disabled as defined by the terms of the Plan. The Plan terms required that in
13 order to receive benefits thereunder, Plaintiff must first apply for short term
14 disability benefits to Hartford, following approval and exhaustion of which, Hartford
15 would automatically consider Plaintiff's eligibility for long term benefits in the
16 absence of a separate application for long term benefits. Plaintiff applied for and
17 was denied short term disability benefits from Hartford, which claim Hartford
18 denied.

19 6. Plaintiff appealed Hartford's adverse determination. In connection with its
20 consideration of Plaintiff's appeal, Hartford requested certain further information
21 from Plaintiff's treating orthopedic surgeon, but allowed the treating doctor an
22 insufficient and very limited amount of time to provide the requested information.
23 When the treating doctor was unable to respond within the wholly inadequate
24 deadline unilaterally set by Hartford, Hartford upheld the initial denial of Plaintiff's
25 claim and advised Plaintiff it would consider no further information concerning her
26 claim.

27 7. Plaintiff learned for the first time upon receipt of Hartford's denial that
28 Hartford had requested information from her orthopedist and as such was provided

1 no opportunity by Hartford to ensure the doctor responded prior to Hartford's
2 unilateral closure of the administrative appeal and record. Although Plaintiff
3 thereafter submitted to Hartford the information Hartford had requested from her
4 treating orthopedist, Hartford declined to review the information and instead
5 returned the information in its entirety to Plaintiff and stated it declined to review
6 such information.

7 8. Plaintiff has exhausted all administrative remedies in relation to her claim for
8 both long and short term disability under the Plan in that Hartford has closed the
9 appeal and acknowledged Plaintiff's exhaustion of administrative remedies on her
10 short term claim and the submission of a separate long term claim to Hartford would
11 be futile in that a separate application for long term benefits is not required under the
12 Plan terms and moreover, Plaintiff cannot establish that she has been continually
13 disabled for the elimination period required for long term benefits as Hartford has
14 deemed her ineligible for short term benefits. Further, even if a separate application
15 were required by the Plan, it is self-evident that Hartford would not approve Plaintiff
16 eligible for long term benefits having found her ineligible for short term benefits.

17 9. As a direct and proximate result of Defendants' refusal to approve Plaintiff for
18 disability benefits, she has been deprived of short and long term benefits from
19 January 2008 to the present and continuing in a sum to be determined at the time of
20 trial.

21 11. As a further direct and proximate result of the denial of benefits,
22 Plaintiff has been required to incur attorney fees to pursue this action, and is entitled
23 to have such fees paid by Defendants pursuant to 29 U.S.C. § 1132(g)(1), ERISA §
24 502(g)(1).

25 12. A controversy now exists between the parties as to whether Plaintiff is
26 entitled to short and long term disability benefits under the Plan. Plaintiff seeks the
27 declaration of this Court that she is entitled to disability benefits from January 2008
28 forward and continuing so long as she remains disabled as defined by the Plan.

1 WHEREFORE, Plaintiff prays for relief against Defendant as follows:

- 2 1. A declaration of this Court that she meets the Plan's definition of
3 "disability" for purposes of short and long term disability from January 2008 through
4 the present and continuing so long as she remains disabled as defined by the Plan;
5 2. An award of benefits from January 2008 to the present, together with
6 interest at an appropriate rate on each monthly payment from the date it became due
7 until the date it is paid;
8 3. For reasonable attorney fees and costs incurred in this action; and
9 4. For such other and further relief as this Court deems just and proper.

10
11 Dated: December 8, 2008

LAW OFFICES OF TRACY COLLINS

12
13 *Tracy Collins*

14 _____
TRACY COLLINS

15 Attorney for Plaintiff CAROL HERCEG
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Percy Anderson and the assigned discovery Magistrate Judge is Victor B. Kenton.

The case number on all documents filed with the Court should read as follows:

CV08- 8117 PA (VBKx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Tracy Collins, SBN 144307
 Law Offices of Tracy Collins
 5699 Kanan Road, Suite 415
 Agoura Hills, CA 91301
 (818) 889-2441 Phone
 (818) 889-1210 Fax tracy@tracycollins.com

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

CAROL HERCEG,

PLAINTIFF(S)

v.

HARTFORD LIFE AND ACCIDENT INSURANCE
 COMPANY, COMPUTER SCIENCE CORP.
 ("CSC") GROUP INSURANCE PLANS,

DEFENDANT(S).

CASE NUMBER

CV08-08117 PA VBK

SUMMONS

TO: DEFENDANT(S): Hartford Life and Accident Ins. Co.; Computer Science Corp. Group Ins. Plans

A lawsuit has been filed against you.

Within 20 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Law Office of Tracy Collins, whose address is 5699 Kanan Road, Suite 415 Agoura Hills CA 91301. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DEC - 9 2008

Dated: _____

Clerk, U.S. District Court

By: _____

Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) CAROL HERCEG		DEFENDANTS	
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Tracy Collins, SBN 144307 5699 Kanan Road, Suite 415 Agoura Hills, CA 91301 (818) 889-2441		Attorneys (If Known)	

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify):
 ☐ 6 Multi-District Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: **JURY DEMAND:** ☐ Yes ☒ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT: \$** _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 29 U.S.C. Section 1132 (a) (e) (f)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
---	--	--	---	---	--

FOR OFFICE USE ONLY: Case Number: _____

CV08-08117

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Carol Herceg - Los Angeles	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Hartford Life and Accident Ins. Co. - State of Connecticut Computer Science Corp. Group Insurance Plans - State of Virginia

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): Tracy Collins Date 12/8/08

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))